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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,218	04/23/2004	Parthasarathy Ranganathan	200403364-1	9362
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EXAMINER NELSON, FREDA ANN				
ART UNIT 3628		PAPER NUMBER		
NOTIFICATION DATE 11/30/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary**Application No.**

10/830,218

Applicant(s)RANGANATHAN,
PARTHASARATHY**Examiner**

FREDA A. NELSON

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-16, 18-21, 23, 24 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-16, 18-21, 23-24, and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The amendment received on July 31, 2009 is acknowledged and entered. Claims 1, 4-9, 11, 15-16, 19-20, 23-24 and 27 have been amended. Claims 2-3, 17, 22, and 25-26 have been canceled. No claims have been added. Claims 1, 4-16, 18-21, 23-24, and 27 are currently pending.

Response to Amendments and Arguments

1. Applicant's arguments with respect to claims 1, 4-16, 18-21, 23-24, and 27 have been considered but are moot in view of the new ground(s) of rejection.

The objections to the claims have been withdrawn due to Applicant's amendment.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1, 15, 20, 24, and 27** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the plurality of metrics" in lines 7 and 11, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the plurality of metrics" in lines 8, 10 and 11, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the plurality of metrics" in lines 8, 10 and 12, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 recites the limitation "the plurality of metrics" in lines 6-7, 9, and 14, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 27 recites the limitation "the plurality of metrics" in lines 11 and 13, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claim 24** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

An invention, which is eligible or patenting under 35 U.S.C. 101, is in the "useful arts" when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result.

4. **As per claim 24**, the claim recites a computer readable medium but fail to show the medium tangibly embodied and to be read by a computer. However, under the current guidelines of 35 USC 101, computer software must be tangibly embodied on a computer readable medium, and, when executed by a computer processor, perform the steps of the software. The instant application discloses in paragraphs [0046]-[0047] the following:

[0046] One or more of the steps of the method 500 may be implemented as software embedded on a computer readable medium, such as the memory 606 and/or 608, and executed by the DREC 10. The steps may be embodied by a computer program, which may exist in a variety of forms both active and inactive. For example, they may exist as software program(s) comprised of program instructions in source code, object code, executable code or other formats for performing some of the steps. Any of the above may be embodied on a computer readable medium, which include storage devices and **signals**, in compressed or uncompressed form.

[0047] Examples of suitable computer readable storage devices include conventional computer system RAM (random access memory), ROM (read only memory), EPROM (erasable, programmable ROM), EEPROM (electrically erasable, programmable ROM), and magnetic or optical disks or tapes. Examples of computer readable **signals**, whether modulated **using a carrier or not**, are **signals** that a computer system hosting or running the computer program may be configured to access, including **signals** downloaded through the Internet or other networks. Concrete examples of the foregoing include distribution of the programs on a CD ROM or via Internet download. In a sense, the Internet itself, as an abstract entity, is a computer readable medium. The same is true of computer networks in general. It is therefore to be understood that those functions enumerated below may be performed by any electronic device capable of executing the above-described functions.

Therefore, in the broadest reasonable interpretation and in light of the specification, claim 24, as recited, can be interpreted to be embodied on abstract

mediums such as carrier waves and signals, and therefore not eligible for patent protection. Accordingly, claim 24 is not eligible for patent protection.

Conclusion

5. The following is an examiner's statement of reasons for allowance:

A) the prior art for example:

(1) Horvitz (US PG Pub. 2004/0267600), discloses models and methods for reducing visual complexity and search effort via ideal information abstraction, hiding, and sequencing.

(2) Mammen (US PG Pub. 2005/0004842), discloses a business method for selling advertisements and traffic related services on electronic billboards.

(3) Shand (US PG Pub. 2003/0126013), discloses a viewer-targeted display system and method.

However, in regard to claims 1, 4-16, 18-21, 23-24, and 27 the prior art does not teach or suggest specific manner in which the price is dynamically adjusted as recited in these claims.

6. **Claims 1, 10, 15, 24 and 27** would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7. **Claim 24** would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

8. **Claims 4-14, 16, 18-19, 21, and 23**, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **FREDA A. NELSON** whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday and Wednesday-Friday, 8:30 AM -4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. A. N./
Examiner, Art Unit 3628

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628